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U.S. Department of Homeland Security

Bureau of Citizenship and Immigration Services

ADMINISTRATIVE APPEALS OFFICE

425 Eye Street N.W.

ULLB, 3rd Floor

Washington, D.C. 20536



File: WAC 00 151 54235

Office: VERMONT SERVICE CENTER

Date:

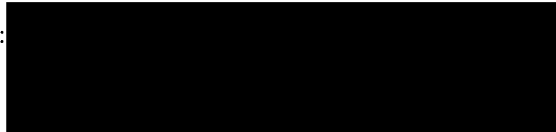
AUG 26 2003

IN RE: Petitioner:  
Beneficiary:



Petition: Petition for Special Immigrant Religious Worker Pursuant to Section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), as described at Section 101(a)(27)(C) of the Act, 8 U.S.C. § 1101(a)(27)(C)

ON BEHALF OF PETITIONER:



**INSTRUCTIONS:**

This is the decision in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or the analysis used in reaching the decision was inconsistent with the information provided or with precedent decisions, you may file a motion to reconsider. Such a motion must state the reasons for reconsideration and be supported by any pertinent precedent decisions. Any motion to reconsider must be filed within 30 days of the decision that the motion seeks to reconsider, as required under 8 C.F.R. § 103.5(a)(1)(i).

If you have new or additional information that you wish to have considered, you may file a motion to reopen. Such a motion must state the new facts to be proved at the reopened proceeding and be supported by affidavits or other documentary evidence. Any motion to reopen must be filed within 30 days of the decision that the motion seeks to reopen, except that failure to file before this period expires may be excused in the discretion of the Bureau of Citizenship and Immigration Services (Bureau) where it is demonstrated that the delay was reasonable and beyond the control of the applicant or petitioner. *Id.*

Any motion must be filed with the office that originally decided your case along with a fee of \$110 as required under 8 C.F.R. § 103.7.

Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The immigrant visa petition was denied by the Director, California Service Center, and a subsequent appeal was summarily dismissed by the Administrative Appeals Office (AAO). The matter is now before the AAO on a motion to reconsider. The motion will be dismissed.

The petitioner seeks classification of the beneficiary as a special immigrant religious worker pursuant to section 203(b)(4) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(4), in order to employ her as a church music trainer at a salary of \$2,300 per month.

The petitioner is represented by counsel who submitted a duly executed Form G-28, Notice of Entry of Appearance as Attorney or Representative. The petitioner, through counsel, filed the Form I-360 visa petition on April 26, 2000. The director denied the petition on multiple grounds in a decision dated March 29, 2001. The petitioner subsequently filed a Notice of Appeal (Form I-290B) from the director's decision. The AAO summarily dismissed the appeal on January 29, 2002.<sup>1</sup> Counsel for the petitioner now files a motion to reconsider the proceeding.<sup>2</sup>

The regulation at 8 C.F.R. § 103.5(a)(1)(i) states that any motion to reconsider an action filed by an applicant or petitioner must be filed within 30 days of the decision that the motion seeks to reconsider.

The appeal was summarily dismissed in a decision dated January 29, 2002. The motion to reconsider was filed on March 12, 2002. The motion to reconsider was untimely filed and, therefore, will be dismissed.

**ORDER:** The motion is dismissed.

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<sup>1</sup> On appeal, counsel indicated that a brief would be filed within 30 days of filing the appeal. As the record of proceeding did not contain a brief as of the date the appeal was considered, the appeal was summarily dismissed.

<sup>2</sup> On motion, counsel asserts that he had, in fact, timely submitted a brief in support of the appeal and submits a copy of a brief dated May 14, 2001. Counsel, however, submits no evidence that the brief was ever filed with the Bureau. The assertions of counsel do not constitute evidence. *Matter of Obaigbena*, 19 I&N Dec. 533, 534 (BIA 1988); *Matter of Ramirez-Sanchez*, 17 I&N Dec. 503, 506 (BIA 1980).